GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TWD – Appeal Petition filed by Sri K. Rama Krishna S/o Ramachari, O/o Postal Accounts & Finance, Tamilanadu Circle, Chennai under Section 7 (2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the proceedings R.Dis.No.MC3/3117/2006, dated 13.12.2007 of the District Collector, Anantapur cancelling his ST- Kammara Community Certificate – Appeal Petition dismissed - Orders - Issued.

TRIBAL WELFARE (CV) DEPARTMENT

G.O.Ms.No.72, Dated.16.11.2023.
Read the following:-

1. Proceedings of the District Collector, Anantapur, R.Dis.No.MC3/3117/2006, dated 13.12.2007.
2. Appeal Petition filed by Sri K. Rama Krishna S/o Ramachari, O/o Postal Accounts & Finance, Tamilanadu Circle, Chennai, before the M(TW&RIAD) on 08.02.2008.
3. Govt. Memo No.1169/CV.2/2008, dt.18.02.2008 and reminders thereon.
4. From the District Collector, Anantapur, Lr.No.RC.No.MC3/1293/2010, dated: 16.06.2010.
5. Govt. Memo No.1169/CV.2/2008, dt.28.04.2012, 01.05.2018, 05.06.2018, 07.08.2018, 17.09.2018, 27.12.2018, 09.01.2019, 23.01.2019, 09.10.2019, 13.11.2019, 09.09.2021, 10.11.2021, 02.03.2022, 26.06.2023 & 01.08.2023.
6. Written arguments filed by the counsel for the appellant before the Government on dt.04.09.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Anantapur had issued orders cancelling the "ST Kammara" community certificate of Sri K. Rama Krishna S/o Ramachari, obtained from the then Tahsildar, Chennekothapalli.

2. In the reference 2nd read above, Sri K. Rama Krishna S/o Ramachari has filed Appeal Petition before the Government against the Proceedings of the District Collector, Anantapur. After examining the said Appeal Petition, Government have admitted the same and granted stay on the proceedings of the District Collector, Anantapur as prayed by the Appellant, and para-wise remarks on the grounds filed by the appellant along with connected records were called for from the District Collector, Anantapur vide Govt. Memo 3rd read above.

3. In the letter 4th read above, the Collector & District Magistrate, Anantapur has furnished the para-wise remarks on the Appeal Petition filed by Sri K. Rama Krishna S/o Ramachari.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 26.08.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 5th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds & written arguments filed by the appellant/ para-wise remarks submitted by the District Collector, Anantapur and proceedings of the District Collector, Anantapur, dated 13.12.2007, the Appellate authority has observed that;

I. This Appeal Petition is filed by Sri K.Ramakrishna, S/o K.Ramachari, native of Nasanakota Village, Chennakothapalli Taluk (Presently Ramagiri Mandal) under Section 7(2) of The AP SC, ST& BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997(Act 16 of 1993) being aggrieved by the impugned Proceedings issued in R.Dis.No MC3/3117/2006 dated 13-12-2007 by the Collector & District Magistrate, Anantapur, canceling the Kammara -S.T caste certificate bearing No.1341/80 dated 28.8.1980 issued by the Tahsildar, Chennakothapalli in favour of him with immediate effect.

II. The counsel for the Appellant filed written submissions and the District Collector also submitted Parawise Remarks in the case. The matter came for hearing finally before the Revision Authority on 26-08-2023. Heard parties. After perusal of the material documents /records available on the records, the following order is made.

[Contd..on P.2]

III. The main contention of the Appellant is that after an enquiry, held by the then Tahsildar, chennekothapalli, had issued caste certificate as Kammara (ST) to him on 28.08.1980 and he secured a job on the strength of the said certificate in Postal Department in 1982 and that the complaint filed by a third party has no locus standi and that in pursuance of the directions of the Collector, subsequently the Tahsildar had conducted an enquiry further and submitted a report against him as he is belonging to non-ST and without giving any notice or serving the report on him and that further the collector directed the Revenue Divisional Officer, Dharmavaram to conduct a detailed enquiry and also submit the report to the District Level Scrutiny Committee(DLSC) which was constituted as per Rule 8 of A.P.S.C.S.T. and Backward Classes Issue of Community, Nativity and Date of Birth Certificate Rules 1997 and the said DLSC also without conducting proper enquiry and giving opportunity had given finding for cancellation of ST certificate issued to him which is not sustainable under law and his further contention is that his forefathers migrated from the Peddakodapalli Village, Pedabayalu Mandal, Visakhapatnam District and produced documentary Proofs of ration cards in respect of tribal Persons belonging to Visakhapatnam agency and the authorities failed to examine them and also his statement explaining the cultural characteristics of kammara caste. The Appellant has prayed finally to set-aside the impugned order passed by the collector in vide R.Dis.No.MC3/3117/2006 by allowing his Appeal.

IV. The case of the Collector is that the appellant is claiming to be 'Kammara'(ST) and his father was a resident of Nasanakota Village, Ramagiri Mandal, Ananthapur District and he had migrated to that village from Tumkur District of Karnataka state and his fore fathers migrated from Peddakodipalli Village, Peddabayalu Mandal, Visakhapatnam District.

V. The contention of the collector is that the appellant produced the Xerox copies and ration cards in respect of some (5) tribal persons belonging to the said agency area, and however he failed to clarify why the surnames of such persons are different to him and also their relationship to him and the appellant doesn't know anything about cultural characteristics of 'Kammara' scheduled tribes such as surnames totemic clans, traditional patterns of marriages, deities worshipped and festivals performed among them.

VI. The contention of the collector further is that the native place from which his father migrated to that village is not traditional habitat of 'Kammara' scheduled Tribe in Andhra Pradesh and keeping of the community name 'Kammara' as surname of the individual and also a suffix of 'Achari' in his father's name (Ramachari) which is found in 'Kammara' caste in plain areas which clearly indicates further that he belongs to Kammara caste, a sub caste of Viswabrahmin', included under BC-B, thus keeping in view of the GO.Ms.No.245, Social Welfare Department, dated 30.6.1977 and Govt.Circular Memo.No.984/CV.2/98-3, dated 23.7.1999 it is unanimously opined that Sri Kammara Ramakrishna S/o K.Ramachari doesn't belong to 'Kammara' (ST).

VII. The Individual also attended the enquiry before the DLSC and stated that his fore fathers might have migrated from Visakhapatanam District, but he could not mention specifically from which village or area his forefathers had migrated and also could not show any documentary evidences to that effect. The Appellant requested for some time to produce the documentary evidences to this aspect during the enquiry. Accordingly, the case was posted to 7.7.2007 to attend for hearing and submit the documentary evidence. The contention of the collector is that appellant attended the enquiry accordingly but he failed to produce evidence on the hearing date and he requested further adjournment to produce evidence. At his request the enquiry was again postponed to 30.7.2007. The Appellant attended the enquiry before the DLSC and produced only the Xerox copies of ration cards in respect of some (5) tribal persons belonging to Visakhapatnam agency area in support of his claim which are not substantial to prove his case and the deposition given by him with effect to this.

VIII. The background of case and rival submissions give rise to following points for consideration.

IX. whether the community certificate issued to the Appellant by the Tahsildar, Tahsildar, Chennakothapalli is valid and proper and whether there is any evidence, substantiating the claim of the appellant as ST- Kammara which is different from the caste of – Kammari - BC?

[Contd..on P.3]

X. The Appellant is claiming that he was issued a certificate as ST-Kammara by the Tahsildar, Chennakonthapalli on 28.08.1980 and on the strength of it, he got a job.

XI. The Government of Andhra Pradesh enacted the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community Certificates Act, 1993 to consolidate the issue of Community Certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes and for matters connected therewith or incidental thereto.

XII. The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules 1997 were further issued vide G.O.Ms.No.58, Social Welfare (J), dated 12-5-1997 in exercise of the powers conferred by sub-section (1) of Section 20 of the aforesaid Act. Rule 3 of the Rules dealing with Community, Nativity and Date of Birth Certificates. Under these Rules.

XIII. The President issued notification of Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 - Act 108 of 1976 dated 18-9-1976 wherein 'Kammara' was added under Part-1 in respect of Andhra Pradesh as falling under Schedule Tribe. Therefore there is no doubt that Kammara is a notified Scheduled Tribe. However identification of Kammara (ST) caste people, which is a distinct from the Kammari (Viswabrahmin) / Kammara (BCs) with the same nomenclature is needed to determine the Kammara -ST individuals through an elaborate enquiry in to such claims.

XIV. The Hon'ble High Court of Andhra Pradesh in Kandrati Subboji And Anr. Vs Government Of Andhra Pradesh And ... on 29 December, 1997(1998 (1) ALD 726) held that "However, it is made clear that whenever an application is made for issue of Scheduled Tribe Certificate in respect of 'Kammara' tribe, it is open for the authorities to conduct the enquiry and a mere proclamation by a person that he belongs to 'Kammara' tribe would not automatically entitle him to get the Scheduled Tribe Certificate. Therefore, whenever, such a matter relating to issue of caste or tribe certificate or enquiry relating to the genuineness of such certificate arise, the authorities are required to enquire into the matter in accordance with the procedure laid down and take appropriate action. It is also made clear that if the 'Kammara' tribe certificates are issued to the persons who are not eligible, it is open for the authorities to cancel the same in accordance with the relevant statutory provisions".

XV. In the present case, the claimant/Appellant is claiming his community status as ST-Kammara based on a certificate issued by Tahsildar Chennekothapalli. The claim of the appellant is that his forefathers have migrated from Peddakodapalli Village, Padabayalu, Mandal, erstwhile Visakhapatnam District, a scheduled area of Andhra Pradesh, but his father migrated from Karnataka State to Nasanakota Village, Ramagiri Mandal, Ananthapur District. However the claimant failed to produce certificates issued by the competent authority as ST-Kammara either to his father or blood relatives in support of his case. The claimant in support of his case, produced the Xerox copies and ration cards in respect of some (5) tribal persons belonging to the said agency area. But the claimant failed to prove their relationship with him. The enquiry reveals that there is no relationship between the appellant and the tribal persons whose personal documents were produced during the enquiry.

XVI. On the other hand there is no evidence on record to show that the Tahsildar had issued certificate on the basis of verification carried out by a Tahsildar, Pedabayalu of scheduled area, since the individual is claiming that their origin is from Pedabayalu Mandal, Visakhapatnam district and his forefathers were resident of said area and his father migrated from that place only. Therefore the Tahsildar chennakothapalli who has no jurisdiction over Pedabayalu mandal area, should have verified about the claim of the Appellant through the Tahsildar, Pedabayalu to know whether the claim of the appellant is genuine or not, since he has alone jurisdiction, In this case there is no such corroborative material in support of the claim of the appellant.

XVII. The enquiry of the authorities raised a serious doubt about the claim of the appellant, observing that the community name 'Kammara' as surname of the individual and also a suffix of 'Achari' in his father's name (Ramachari) which is found in 'Kammara' caste in plain areas, a sub caste of Viswa brahmin' caste included under BC-B.

[Contd..on P.4]

XVIII. The (g) of Rule 5 of Rules 1997, provides an importance for verification of the claims in respect of the tribal communities who are not " traditional inhabitants" of the area of territorial jurisdiction of the "Competent Authority". As discussed above, in the present case the appellant claimed that their ancestors are from Pedayabayalu mandal, tribal area and they migrated from that area. But there is no evidence in respect of this aspect. Therefore the finding given by the DLSC and the collector rejecting the claim of the appellant is proper.

XIX. As per the findings of the Scrutiny committee, the Jt. Collector/ Chairman, DLSC, inspite of several opportunities, the appellant has failed to produce any documentary evidences to prove his caste as Kammara and has finally recommended for cancellation of the false Kammara (ST) caste certificate obtained by the individual from the then Tahsildar, Chennakothapalli by misrepresenting the facts.

XX. In the absence of valid evidence substantiating the community status as ST-Kammara, the claim of the Appellant cannot be considered as ST-Kammara. As per Section (6) of A.P. (S.Cs, S.Ts, BCs) Regulation of Issue of Community Certificates Act 1993(Act 6 of 1993), burden of proof that he belongs to such caste, tribe or class shall be on the claimant. The claimant has not discharged his legal burden in the case.

XXI. As per rule 9(9) of A.P. SC,ST,& BC issue of Community and Nativity and Date of Birth Certificate Rules, 1997, the Collector or Government either suo-moto, or on a written complaint by any person or on request by an employer/ educational institution appointing authority shall enquire into the correctness of any Community, Nativity, Date of Birth Certificate already issued and if it is found that the certificates is obtained fraudulently then the District collector of the Government as the case may be shall cancel the Certificate as per section (5) of the Act.

XXII. The District Collector is empowered under Section 5(1), either on suo-motu or on a written complaint in person, can call for the record of any person who obtained false community certificate either before or after the commencement of the Act and enquire into the correctness of such certificate. If the District collector is of the opinion that the certificate was obtained fraudulently, he shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation.

XXIII. The certificate obtained as ST- Kammara by the appellant shall not stand itself as a proof to his claim. The appellant has to prove the contents there in are true by adducing legal evidence to that effect. The Supreme Court in Kumari Madhuri Patil & Anr. Vs. Addl. Commissioner, Tribal Development & Ors case (AIR 1995 SC), took a note of the fact that the benefit of reservation of seats in educational institutions, and other appointments were being denied to the genuine tribals on the basis of false caste certificates. Terming such caste claims as "pseudo status", and further the Supreme Court observed that spurious tribes had become a threat to the genuine tribals and it is also held that when it is found to be a case of fraud played by the concerned, no sympathy and equitable considerations can come to his rescue.

XXIV. In view of the above rulings of the Higher Courts and discussions, there is no irregularity or illegality in cancelling the community certificate issued to the Appellant herein as ST-Kammara. Therefore the impugned order passed by the Collector & District Magistrate, Anantapur in R.Dis.No.MC3/3117/2006 dated.13-12-2007 cancelling the Kammara - S.T caste certificate bearing No.1341/80 dated 28.8.1980 issued by the Tahsildar, Chennakothapalli in favour of him with immediate effect, is hereby upheld. In the result, Appeal Petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Sri K. Rama Krishna S/o Ramachari does not deserve any interference. Hence, the proceedings in the R.Dis.No.MC3/3117/2006, dated 13.12.2007 of the District Collector, Anantapur are hereby upheld and the appeal petition filed by Sri K. Rama Krishna S/o Ramachari is hereby dismissed. The certificate issued by the then Tahsildar, Chennekothapalli, deemed to be cancelled.

[Contd..on P.5]

6. The Collector & District Magistrate, Anantapur is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (R.Dis.No.MC3/3117/2006, containing pages NF 1-18 and CF 1 to 180) received from the Collector & District Magistrate, Anantapur are returned herewith in original to the Collector & District Magistrate, Sri Satya Sai District and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Sri Satya Sai District at Puttaparthi.
(With original Records)**(BY RPAD)**

The Collector & District Magistrate, Anantapuramu.

Sri K. Rama Krishna S/o Ramachari,
O/o Postal Accounts & Finance,
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(through the Director of Accounts(Postal), Hyderabad)

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// FORWARDED:: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER